

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:24-cv-695**

NWR CONSTRUCTION, LLC,

Plaintiff,

vs.

SCHINDLER ELEVATOR CORPORATION,

Defendant.

NOTICE OF REMOVAL
Mecklenburg County Superior Court
24CV026051-590

Defendant Schindler Elevator Corporation (“Schindler”), by and through its undersigned counsel, files this Notice of Removal of the above-captioned matter from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, to the United States District Court for the Western District of North Carolina, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully shows to this Court the following:

1. Plaintiff NWR Construction, LLC, commenced this action by filing a Complaint on or about June 7, 2024 in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, bearing file number 24CV026051-590.

2. As more fully set out below, this case is properly removed to this court because (1) Schindler has satisfied the procedural requirements for removal; and (2) this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.

I. Schindler Has Satisfied the Procedural Requirements for Removal.

3. Schindler first received notice of the Complaint filed in this action on June 28, 2024, which is the date on which the Complaint was served on it by delivery to its registered agent by certified mail.

4. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is being filed within thirty days after “the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. . .”

5. Venue is proper in this Court pursuant to 28 U.S.C. § 113(c) because it is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

6. Schindler has made no previous application for the relief requested herein.

7. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Schindler are attached hereto as **Exhibits A** (Civil Summons) and **B** (Complaint) and incorporated herein.

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiffs, and a copy is being filed with the Clerk of the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina. For reference of the Court, a true and accurate copy of the Notice being provided to the State Court is attached hereto as **Exhibit C** and incorporated herein.

II. Removal Is Proper Because This Court Has Subject Matter Jurisdiction Pursuant to 28 U.S.C. § 1332.

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is diversity of citizenship between the necessary or proper parties and the amount in controversy exceeds \$75,000.

10. A corporation is deemed to be a citizen of both the state(s) of its incorporation and the state where it has its principal place of business. *See* 28 U.S.C. § 1332(c)(1).

11. The citizenship of a limited liability company is determined by the citizenship of each of its members. *See, e.g., Carden v. Arkoma Assocs.*, 494 U.S. 185, 195 (1990).

12. Defendant Schindler Elevator Corporation, is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Morristown, New Jersey. Thus, Schindler Elevator Corporation is a citizen of Delaware and New Jersey for purposes of diversity jurisdiction under § 1332.

13. Plaintiff NWR Construction LLC, is a limited liability company existing under the laws of the State of North Carolina. Compl. ¶ 2.

14. Upon information and belief, NWR Construction LLC has a single member, Northwood Ravin LLC, and the members of Northwood Ravin LLC are all either citizens of Colorado or North Carolina.

15. Consequently Plaintiff is not a citizen or resident of Delaware or New Jersey for purposes of diversity jurisdiction under § 1332.

16. As shown above, pursuant to 28 U.S.C. § 1332(a) and (c)(1) there is diversity of citizenship as required by § 1332(a).

17. The Complaint alleges damages of "an amount in excess of \$25,000" in addition to recovery of treble damages. Compl. ¶¶ 31-32, 45-46, 53-54. Thus the amount in controversy exceeds \$75,000 as required by 28 U.S.C. § 1332(a).

18. Nothing in this Notice of Removal should be construed as a waiver or relinquishment of Schindler's right to assert any defense or counterclaim, including, without limitation, the defenses of failure to state a claim, or any other procedural or substantive defense or counterclaim available under state or federal law.

WHEREFORE, Defendant Schindler Elevator Corporation requests that this action proceed in this Court as an action properly removed to it and for such other and further relief as the Court may deem just and proper.

Respectfully submitted, this 29th day of July 2024.

AKERMAN LLP

/s/ Donald R. Pocock

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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2024 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such to the following:

None

And I hereby certify that I have mailed the foregoing to the following non-CM/ECF participants:

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